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2	•	
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4	DEREK BUTTS (CASBN 172207) Special Assistant United States Attorney	
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8	E-mail: derek.butts@usdoj.gov	
9	Attorneys for Plaintiff	
10	UNITED STA	TES DISTRICT COURT
11	NORTHERN DIS	STRICT OF CALIFORNIA
12	OAKL	AND DIVISION
13		
14	UNITED STATES OF AMERICA,) No. CR 08-00045 DLJ
15	Plaintiff,) GOVERNMENT'S SENTENCING) MEMORANDUM
16	v.	Ś
17	ARRINGTON DEWAYNE GREEN,	DATE: July 11, 2008 TIME: 10:00 a.m.
18	Defendant.	Honorable D. Lowell Jensen
19		,
20	For the reasons set forth below, the g	government respectfully requests that the Court
21	sentence the defendant, Arrington Dewayne	Green, to a term of 212 months imprisonment, 4
22	years of supervised release, no fine, and the	\$200 special assessment.
23		
24	<u>Factu</u>	al Background
25	On June 5 th and 6 th of 2007, FBI ages	nts and police officers from the Richmond Police
26	Department and other agencies conducted an	n operation in the City of Richmond which was
27	aimed at making undercover purchases of co	ocaine base, referred to on the street as "crack." A
28	confidential informant was utilized for this p	ourpose. The informant and the undercover vehicle
	GOVT. SENT. MEM. CR 08-00045 DLJ	

that were utilized in this operation were outfitted with cameras capable of capturing video and sound. On June 5th, the informant drove to the area of 8th Street and Lucas Avenue in Richmond. California and asked for "Rodney." The defendant stated that "Rodney" was in Sacramento and then when asked for some "hard" (i.e. crack cocaine), thereafter sold 4.4 grams of crack to the informant (Count Two of the indictment). On June 6th, the informant returned to the same area and contacted the defendant who thereafter sold 9.1 grams of crack to the informant. Both transactions were effectively recorded.

The Sentencing Guidelines

Pursuant to U.S.S.G. § 4B1.1(b), the defendant faces a guideline range of 188 to 235 months, as explained in the Presentence Investigation Report (PSIR). Probation, having conducted its standard investigation of the defendant's background, states that nothing has been revealed during that investigation that would justify a departure from the advisory guidelines (PSIR ¶ 79) and recommends that the Court sentence the defendant to the low end term of 188 months. For the reasons set forth below, the Government requests the Court to sentence the defendant to a term of 212 months.

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The Defendant's Past Criminal Cases

The defendant is a drug dealer in the 8th Street and Lucas Avenue area of Richmond, California. He has been engaged in drug dealing and other criminal activity in this area for many years. This conclusion is easily drawn from the facts of this case and from the background information that probation was able to discover during its investigation. The defendant dropped out of school after 9th grade. Since that time (a period of approximately 13 years), he reports having been employed on just two occasions. Neither period of employment was claimed to have lasted very long nor could the fact of employment be verified. Paragraph 55 of the PSIR documents the fact that the defendant reports no assets, income or bank accounts. In reference to the support of two children, there is no child support order but the defendant contributes to their care when he is able. (PSIR ¶ 47). The only activity we know for certain that the defendant has

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engaged in to support himself is drug dealing.

Further supporting the conclusion that the defendant has been a drug dealer for many years in the 8th Street and Lucas Avenue area is his criminal history. The following is a summary of the four incidents that led to the defendant's felony convictions, supported by police reports as Exhibits 1 through 4:

On July 23, 1998 the defendant was convicted of possession of cocaine base for sale. In that case, a Richmond Police Officer on May 6, 1998 observed what he believed was a transaction where the defendant sold drugs to another person in front of 731 8th Street which intersects with Lucas Avenue. The defendant was eventually detained by the officer and found to possess 66 individually packaged pieces of cocaine base and \$57.00 in cash. (See Exhibit 1 - R.P.D. case #98-9522).

On March 16, 2000, Officer Mollenbernd of the Richmond Police Department observed a known lookout to signal police presence to other individuals in the area at 8th Street and Lucas Avenue. Officer Mollenbernd's attention was then focused on the defendant who appeared to be placing objects in to his mouth, consistent in Officer Mollenbernd's experience with an attempt to hide drugs. The defendant was arrested and found to be in possession of seven baggies of cocaine base, two of which he unsuccessfully attempted to swallow and five of which were secreted in his rectum (See Exhibit 2 - R.P.D. case #00-7060). The defendant was convicted of possession of cocaine base in that case on July 2, 2001.

On June 5, 2001 Richmond Police were dispatched to a call regarding a man with a gun chasing another person. Officer Moody, having received a good description of the suspect, turned his vehicle south on 10th Street from Lucas Avenue and spotted the defendant, who matched the description. The defendant walked to a nearby gas station where he threw the gun into the vehicle of a woman getting gas and then ran from police before being captured (See Exhibit 3 - R.P.D. case #01-14962). He was convicted in that case on July 2, 2001 of being a felon in possession of a firearm.

On August 11, 2002, Richmond Police responded to 567 8th Street where the victim of a gunshot wound, Aldon Grisby, was found. Officer Haupt inspected the clothing of the victim

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which had been cut off by paramedics and found \$727 cash and 5 baggies of suspected cocaine base. Investigation at the scene and follow up by Detective Esparza revealed that the defendant attempted to rob the victim and when the victim struggled, the defendant shot him. (See Exhibit 4 - R.P.D. case #02-21824). In this case, the defendant was convicted on June 19, 2003 of assault with a firearm and an enhancement for causing great bodily injury and sentenced to state prison for five years. The defendant was on parole for that offense when he committed the acts charged in Counts 1 and 2 in the present indictment.

From the years 2001 through 2002, the defendant was also convicted in three separate cases of driving with a suspended driver's license.

A Sentence of Imprisonment of 212 Months is Reasonable and Appropriate

As a review of the four above cases indicates, the defendant is not simply a supplier of drugs in the 8th Street and Lucas Avenue area of Richmond, but he has also demonstrated a propensity to commit desperate and violent acts. In the June 5, 2001 case, police were dispatched to a call regarding a man with a gun chasing another person. Although that aspect of the case was never substantiated, the defendant's actions after being spotted by the police demonstrate a complete disregard for the safety of other members of the public. And the act of shooting a victim in the course of a robbery puts the defendant in a category with the most violent criminals whose threat to the public safety of the citizens of our communities ends only during periods of incarceration or when the criminal succumbs to the same type of violence that he has shown his willingness to exact on others.

The present case also demonstrates the negative impact that the defendant has had on the community. He is a supplier of crack cocaine, a distinctly evil drug which has a tremendously negative impact on poor, predominantly African American communities. The impact is far ranging: not only do the addicts suffer from its curse but law abiding citizens must also suffer from the criminal behavior of the addicts who are under the influence of the drug or who commit crimes to obtain money to supply their habit.

While the defendant is charged with two instances of selling crack cocaine, as outlined

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above it is apparent that this criminal behavior is a way of life for the defendant. The circumstances of this case solidify that conclusion. On June 5, 2007, an undercover informant drove to the area of 8th Street and Lucas Avenue intent upon purchasing crack. When the informant pulled over and made verbal contact with the defendant (who was unknown to the informant), the defendant readily agreed to a sale and immediately secured 4.4 grams of crack which he delivered to the informant in exchange for \$160.00. After the exchange, the defendant stated in reference to his "trade:" "I sell 'em for twenties, all day." The defendant even provided his phone number so that he could supply the informant in the future. Without arranging for another transaction, the informant drove to the same area on the following day and encountered the defendant once again at which time a second transaction was arranged for a larger amount of crack. The defendant then drove approximately one block where he met another individual at a residence to acquire the crack to sell to the informant. The transaction was completed at that location for \$300. Given the defendant's history and the circumstances of the two charged transactions, the defendant's fixture as a supplier of crack at 8th Street and Lucas Avenue cannot be disputed.

As outlined in the PSIR, the defendant's current charges and prior convictions qualify him as a career offender under U.S.S.G. § 4B1.1. Since the offense charged in Count One of the indictment carries a maximum penalty of forty years, the defendant's base offense level is 34. The only positive aspect of this entire case that can be attributed to the defendant is his clear acceptance of responsibility and timely notification of an intention to plead guilty. For this, the defendant has earned a three-level downward adjustment for a total offense level of 31. Computed with a criminal history category of VI, the advisory guideline range is 188-235 months in prison.

The Government has yet to be apprised of any reasons asserted by the defendant in support of a downward departure from the advisory guideline range. A review of the sentencing factors set forth in 18 U.S.C. 3553 in light of what is known about the defendant's conduct in this case and his history and characteristics does not reveal anything that might favor leniency. This is the conclusion reached by Probation in the PSIR.

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On the other hand, the factors set forth in 18 U.S.C. § 3553 support the Government's request that the defendant be sentenced to a term of 212 months, a figure in the middle range of the advisory guidelines. While these factors are prone to a certain subjectivity in their application, the Government would like to emphasize that two are especially applicable to the defendant and supportive of the punishment requested.

First, 18 U.S.C. § 3553(a)(1) requires the Court to consider that nature and circumstances of the case and the history and characteristics of the defendant. The nature and circumstances of the case, viewed discretely and objectively, do not evidence notably serious or notably minor instances of selling crack cocaine. These were not ounce-level deals. Nor were they sales of a single piece or "rock" of crack cocaine. The deals were arranged as 1/4 ounce and ½ ounce amounts, although less crack than arranged was delivered by the defendant on both occasions. But the defendant's history and characteristics do strongly support a sentence in the middle range of the advisory guidelines. The known facts and obvious inferences drawn from them show that the charged transactions represent a mere fraction of the drug dealing activities of the defendant. The prior conviction from 1998 shows that the same behavior was occurring at least nine years prior. The incident leading to the conviction for simple possession in 2001, where defendant was tipped to police presence by a lookout and attempted to swallow cocaine base is yet another solid set of facts to show that the defendant's drug dealing activities were continuing despite his prior conviction.

Second, 18 U.S.C. § 3553(a)(2)(C) sets forth as an objective in sentencing the goal of protecting the public from future crimes of the defendant. Quite frankly, nothing has stopped the defendant yet. He has been convicted, placed on probation, imprisoned for five years and paroled, all with no effect on his propensity to deal drugs and commit violent crimes. He is a high school dropout with essentially zero legitimate work experience. And the fact that all of the felony crimes for which the defendant has been held accountable have occurred in the area of 8th Street and Lucas Avenue ominously suggest that he at least feels that he can sell drugs and commit crimes there in relative safety. A sentence of 212 months will effectively eliminate the defendant's ability to victimize the community. Given his history, a lengthy period of

incarceration is the only means by which public safety can be assured.

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Conclusion

The government respectfully requests that the Court sentence the defendant to a term of 212 months imprisonment, 4 years of supervised release, no fine, and the \$200 special assessment.

Dated: July 1, 2008 Respectfully submitted,

JOSEPH P.RUSSONIELLO United States Attorney

Derek Butts

Special Assistant United States Attorney

Dura Sutto

EXHIBIT 1

Case 4:08-cr-00045-DLJ

Document 12

Filed 07/01/2008

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RICHMOND POLICE DEPARTMENT 0710 401 27th Street

Richmond, CA, 94804

1 Case No.

98-09522

1 Page

Code Section HS11351.5 Date & Time Occurred - Day May 06 1998 18:31 WEDNESDAY POSS/ETC BASE/ROCK May 06 1998 18:31 Title Date & Time Reported **COCAINE F/SALE** Classification Where Occurred () Felony IFO 731 - 8TH ST Misdemeanor RICHMOND CA Other

Narrative

Additional Suspect Information: Wearing a puffy down-style jacket with a blue windbreaker underneath, blue jean pants and black boots. DATA

See the attached narrative.

800 TO YAM

ECORDS

Victim

STATE OF CALIFORNIA Victim Name - (Firm if Business)

D.O.B.

Sex

Residence Address

Race

Age

Business Address/School

Res. Phone

Occupation

Bus. Phone or Ofc

Involved

INVL

REP Victim Name ROBINSON, OFC L., #413

D.O.B.

Sex

Residence Address

Race

Age

Business Address/School

Res. Phone

Occupation

RPD OFFICER

Bus. Phone or Ofc

620 6643

Suspect

Suspect (Last, First, Middle) Nickname/AKA

GREEN, ARRINGTON DEWAYNE

GREEN, DEWAYNE

Suspect Address

5823 ALAMEDA AV, APT D

EL CERRITO

CA

Jan 20 1979 Sex D.O.B.

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Arrest #A98-02123/see narrative

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Filed 07/01/2008 Page 10 of 55 Case 4:08-cr-00045-DLJ Document 12 RICHMOND POLICE DEPARTMENT 0710 1 Case No. 401 27th Street Page 2 98-09522 Richmond, CA. 94804 Reporting Reporting Officer OFC L ROBINSON Serial No. 413 Date Transcribed PRT T DART May 06 1998 Transcriber 1196 Serial No. Routing Robbery S.S. Capt Homicide Vice Stat I.A. Approved By

Serial No

State R. File

Traffic D.A. Total:

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ADA. Com Rel Fraud

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RICHMOND POLICE DEPARTMENT 0710

Patrol Bureau Supplement

CASE NO: 98-09522

PAGE NO:

CODE SECTION

CRIME/CLASSIFICATION

HS11351.5

POSS/ETC BASE/ROCK COCAINE F/SALE

IFO 731 - 8TH ST

VICTIM'S NAME - LAST, FIRST, MIDDLE (FIRM IF BUS.)

STATE OF CALIFORNIA

DATE OF ORIGINAL

On Wednesday 05/06/98, at 1831 hrs, I was driving w/b on Pennsylvania in the #2 lane just crossing 8th St. My attention was drawn to the suspect and another BM in the 700 block of 8th St along the w/c/l near the residence of 717 - 8th St.

I observed that the suspect, who was the taller of the two, appeared to be holding something in his cupped hand with his arm extended outward and the BM (suspected narcotic buyer) appeared to be looking down in the suspect's hand. I then observed the suspect and the BM both look up and I observed an unknown hand exchange from the suspect to the unknown BM. I continued driving w/b on Pennsylvania to 7th St and n/b down 7th St to Lucas. I then made a right turn onto Lucas, headed one block east on Lucas to 8th St, then made a right turn onto 8th St, now continuing s/b on 8th St from Lucas. As I was driving s/b on 8th St, I saw the suspect, who was now alone, walking n/b on 8th St along the w/c/l.

I drove up to the suspect's location and exited my vehicle. I advised the suspect that I stopped him because it appeared that he and the BM were conducting a drug transaction. The suspect then replied. "I wasn't selling drugs." I then asked the suspect if I could search him. The suspect said ves. Pnor to me searching the suspect I asked the suspect where his dope was. The suspect then replied, "It's in my left pants pocket. I only got a little bit." I then placed the suspect under arrest for investigation of narcotics. Incident to arrest, I searched his left pocket and found a sandwich bag tied in a knot which contained 66 smaller, individually packaged, ziplock baggies which contained an off-white substance that looked similar to rock cocaine.

I also located one \$10 bill and three \$1 bills in the suspect's right-front pocket.

I then transported the suspect to the Hall of Justice for booking and processing. Upon my arrival to the Hall of Justice, I conducted a warrant check and a criminal history check. The warrant check revealed the suspect had an outstanding no-bail warrant for violation of probation. Refer to the attached printout. The criminal history check revealed the suspect had two previous arrests. One arrest was for PC166 A4 (Disobey Court Order), with disposition Juvenile Hall. The second arrest was for Minor in Possession of Concealable Firearm w/o Parents' Consent. That disposition was also Juvenile Hall.

At 1929 hrs, reading from my Miranda waiver card, I read the suspect his rights. The suspect said, "Yes,

REPORTING OFFICERS	TYPED BY	DATE	SGT. G. RUHL		
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RICHMOND POLICE DEPARTMENT 0710 Patrol Bureau Supplement

CASE NO:

98-09522

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POSS/ETC BASE/ROCK COCAINE F/SALE

IFO 731 - 8TH ST

VICTIM'S NAME - LAST, FIRST, MIDDLE (FIRM IF BUS.)

STATE OF CALIFORNIA

DATE OF ORIGINAL

sir," to question #1. The suspect shook his head indicating no to question #2. No further questions were pursued.

I conducted a presumptive test on the baggie that I marked "#2" which tested positive for cocaine base. I weighed the narcotics and the weight was 13.75 grams.

! conducted a strip-search on the suspect's person and did not locate any further narcotics on his person. However, in his left-rear pocket I located five \$5 bills, one \$10 bill and nine \$1 bills. The total currency the suspect had was \$57. The money was retained in the suspect's possession.

I booked the suspected narcotics in locked Vice Locker #1 at RPD.

It should be noted that I have made approximately 275 to 300 arrests for drug-related offenses during my tenure as an RPD officer. The action I observed between the suspect and the other unidentified BM was consistent with a street level deal. It should also be noted this area has a long-standing history of narcotic trafficking in the area. The two drugs of choice in this particular area are rock cocaine and marijuana. It should also be noted that I have made several arrests for possession for sales of cocaine and possession for sales of marijuana in the nearby surrounding area.

I recommend this report be routed to the DA's Office for review on a criminal complaint.

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WARRANT ABSTRACT HELD BY: CONTRA COSTA COUNTY SHERIFF

TYPE: RTCO MISDEMEANOR

WRNT-NBR: EHD31669CONTROL-NBR: 234228 DOW: 01/15/1998

BAIL:NO BAIL

NAME: GREEN ARRINGTON DEWAYNE DOB: 01/28/1979

DESC: MB 600 160 BLK BRO OLN: X3683787 CA SSN: 573-59-6341

SMT:

SID: A09011103 FBI: FCN: 1429801700497

ADDR: RESID: 824 48TH AVE OAKLAND CA 94605-0000

WANT-REASONS: FTA FOR JAIL/WAP

CHGS: MISDPC 1203.016C

WANT INSTRUCTIONS: NO SIGNED PROMISE RELEASE

NO BAIL ALLOWED

BAIL MAY NOT BE FORFEITED

NIGHT SERVICE NOT AUTHORIZED

JUDGE: WARREN E. RUPF COURT: CO CO CTY SHERIFF'S CUSTY. ALTRN'V BU

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ADDITIONAL INFORMATION:

RICHMOND PLS ADVISE RECEIPT OF THIS WRNT TO MNE#MRT THANKS

==> COPY-OF-ABSTRACT-SENT-TO: RHD0

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RICHMOND POLICE DEPARTMENT 0710

Investigative Bureau Supplement

98-09522

CASE NO:

PAGE NO:

CODE SECTION

CRIME/CLASSIFICATION

LOCATION

HS 11351.5

POSS OF CONTROLLED SUBSTANCE FOR SALE

731 8TH ST

VICTIM'S NAME - LAST FIRST MIDDLE(FIRM IF BUS.)

DATE OF ORIGINAL

STATE OF CALIFORNIA

5-6-98

DATE OF SUPPLEMENT:

5-8-98

SUSPECT:

GREEN, ARRINGTON DEWAYNE

DATE CHARGED:

5-8-98

DISTRICT ATTORNEY:

DDA W. CLARK

CHARGE:

HS 11351.5

EVIDENCE:

HOLD

PROPERTY:

HOLD

CLEARANCE:

A/C

REPORTING OFFICERS	TYPED BY	DATE	ROUTED BY	
DET. E. SOUSA, #1025	mjs	5/11/98	No 1032	
Robbery Com. Rel. A.T. Homicide Property Stall State SS Capt. Fraud C.A. D.A. Pat	rol Capt Adm		Vice Other:	Assigned:

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Laboratory Num	ber	Offense(s)			- Date(s) Exami	ned 190
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EXHIBIT 2

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	RICHMOND POL	ICE DEPT. 0710		T28 CASE NO.	128
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- RICHMOND POLICE DEPARTMENT 0710

Investigative Bureau Supplement

CASE NO.

00-7060

PAGE NO:

CODE SECTION

CRIME/CLASSIFICATION

LOCATION

H&S 11350 a

Possession of Rock Cocaine

800 Block of 8th Street, Richmond

VICTIM'S NAME - LAST, FIRST, MIDDLE(FIRM (F BUS.)

DATE OF ORIGINAL

1

STATE OF CALIFORNIA

16 MAR 00

Date of Supplement: 16 Mar 00

On 3-16-00 I was assigned to Metro wearing a full distinctive police utility uniform. I was driving marked RPD car number 82.

At approximately 1442 hours I arrived in the area of 8th Street and Lucas Avenue, which is an area known for its high level of narcotics related activity. I entered this area from 7th Street to eastbound Lucas. As I turned the corner I saw a black female adult standing on the northwest corner of this intersection and recognized her as Flo Flannigan from prior contacts. I have knowledge that Flannigan acts as a police lookout and gives notice to the drug dealers that the police are in the area. As I turned the corner I saw Flannigan face northbound in the 800 block of 8th Street and say something. Flannigan began walking northbound on the west sidewalk in the 800 block of 8th Street.

As I turned northbound on 8th Street from Lucas my attention was drawn to a black male adult, later identified as Green, who was wearing a red t-shirt and blue jeans and was standing in the middle of the street. As I proceeded northbound on 8th Street Green turned around and looked in my direction and then began walking to the eastside of the street towards the listed vehicle. Green made a quick motion with his right hand up towards his mouth like he was popping something into his mouth. This action is common for drug dealers to quickly swallow the drugs in their hands to prevent the item to be discovered by the police.

As I continued northbound accelerating my patrol car, Green quickly got into his vehicle which he opened with his left hand. I noticed that his right hand was closed in a fist. I brought my car to a stop at the left rear bumper of the suspect's vehicle and requested a cover officer. I made contact with the suspect's vehicle at the open drivers door window at this time because of the tinted windows I saw that there was a right front passenger, Witness Dozier, a black female juvenile. As I made contact at the door I noticed Green was swallowing hard like he was trying to still swallow something. I noticed that Green was messing with his right, front waistband area and the right side of his thigh in the car seat. It appeared to me that Green was trying to conceal something from my view. I then asked Green, "Did you get it swallowed?" Green replied that he did not swallow anything. I told Green well I think you just swallowed dope. Green replied that he did not have anything. I asked Green if he had any drugs on him or in the car and he told me no. About this time Officer Cunningham arrived as my cover. I asked Green back to my patrol car and about this time Officer Washington amived. Officer Washington remained with me while

REPORTING OFFICERS	TYPED BY	DATE	ROUTED BY	
Det. T. Mollenbernd, #1250	ph	3/17/0	LT. E. McBRIDE	MAR 17 2000
Robbery Com. Rel. A.T. Homicide Property State SS Capt. Fraud C.A. D.A. Part	ro(Capt Adm		Vice _ Other: File LA _ Other:	Assigned: U(CF_Total

RICHMOND POLICE DEPARTMENT 0710 S Investigative Bureau Support (1)

CASE NO: 00-7060

PAGE NO:

2

CODE SECTION

CRIME/CLASSIFICATION

LOCATION

H&S 11350 a

Possession of Rock Cocaine

800 Block of 8th Street, Richmond

VICTIM'S NAME - LAST, FIRST, MIDDLE (FIRM IF BUS.)

DATE OF ORIGINAL

STATE OF CALIFORNIA

16 MAR 00

Officer Cunningham contacted Dozier. I then had Green put his hands behind his back to assume a searching position. I searched Green's pants pockets without locating anything because of Green's furtive movements towards his waistband I grabbed the waistband of his pants and shook the brim of the pants and then moved down to the right pant leg and shook it up and down. As I did this two small clear zip lock baggies containing an off-white rocky, chalky substance fell from his right pant leg onto the street. Based on my training and experience I believe that the substance was cocaine based rock. I then took Green into custody for 11350 a H&S.

I then placed Green in the back seat of my patrol car. Officer Washington utilized his drug sniffing canine to search Green's vehicle. Green claimed ownership of the car and said it was his. After the search Officer Washington told me that his dog indicated on the driver's and center console area of the car although he was not able to locate any drugs. Believing that Green may have handed Dozier drugs which is common among drug dealers to hand their drugs or weapons to females, I asked Dozier if she would consent to a search of her person. Dozier said I could search her. I searched Dozier front pants pockets without locating any drugs or paraphernalia. Dozier told me that Green is her boyfriend and that she is basically homeless and lives with her mother off and on at the Second Street Mission on the female housing side.

During my initial observation, contact and investigation in the 800 block of 8th Street there were several people present to the north of our location. Upon making contact with Green they began walking my way, questioning me about what was going on. A black male who identified himself as Green's older brother approached me and asked if I could give his little brother a chance and let him go because their grandfather just died recently and there has been other problems in the family. Green's other brother used his cell phone and called his mother at work and asked that I speak with her. Mrs. Green also told me that there has been problems in the family and asked that I do what I can to help her younger son.

I left the listed vehicle at the scene and release the keys to Dozier at Green's request. While driving to the Hall of Justice Green continually asked me if I could let him out. I noticed that he was very agitated and speaking rapidly. I also noticed that Green's lips were dry and had a white film around the inside of his lips in the corners of his mouth, which indicated to me based on my training and experience that he was under the influence of a narcotic.

While at the Hall of Justice I completed the booking forms on Green and took him to the DUI Investigation Room to speak with him. I read Green his Miranda Rights from my department issued yellow Miranda

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REPORTING OFFICERS	TYPED BY	DATE	ROUTED BY
Det. T. Mollenbernd, #1250	ph	3/17/0	
Robbery Com. Ret. A.T. Homicide Property State State Scapt. Fraud C.A. D.A. Pate	Admi		Vice Olher: Assigned: I.A. Other: Total

CASE NO: RICHMOND POLICE DEPARTMENT 0710 00-7060 Investigative Bureau Supplement (1971) PAGE NO: 3 CRIME/CLASSIFICATION LOCATION H&S 11350 a Possession of Rock Cocaine 800 Block of 8th Street, Richmond

VICTIM'S NAME - LAST, FIRST, MIDDLE (FIRM IF BUS.)

STATE OF CALIFORNIA

CODE SECTION

DATE OF ORIGINAL

16 MAR 00

Warning Card. When I asked Green if he understood his rights, he replied, "uh huh". I asked Green to tell me what his problems were and he told me that his grandfather passed away February of this year. Green said he has been stressed out over his grandfather's death and over the fact that he is having to grow up so fast and take care of his mom and that he can't be a kid any more. I told Green what I thought I saw as he was walking to get into his car. Green told me that he did see me and tried to throw the two bags of crack in his mouth and swallow him, but only one went in his mouth and he could not swallow it. After Green got in the car he spit the crack which was packaged in a small zip lock baggie back into his hand and admitted he concealed it in the right front waistband area of his underwear. Green said he bought the two rocks for \$10.00 and normally buys from 6th Street or 7th Street. Green said that he bought cocaine today on 7th Street. I asked Green what he was doing on 8th Street and he told me that his folks are all over there. I asked Green when the last time was that he smoked rock cocaine and he told me today and changed his mind and said no, yesterday night. I asked Green how he takes the rock cocaine and he told me he smokes it with weed and began crying and asking me why I was asking all those questions. I told Green it was to find out how he used it and why. Green told me that he was embarrassed but has been using rock cocaine since his grandfather passed away. I asked Green if he had a job and he told me he is unemployed. I asked Green to stand up and remove the contents of his pants at which time I discovered he did not have any user paraphernalia, although in his left rear pants pocket he had \$61,00 consisting of three \$20.00 bills and one \$1.00 bill. Green told me that money was from his mother that \$40.00 was from his mother to pay the phone bill and that he had \$24.00 of his own. In Green's left front pants pocket I found he had four \$1.00 bills. I told Green that I wanted to help him out due to his situation, but asked him to be honest with me and tell me if he had any more dope on him. Green began crying again and bent over in his chair and put his head on his knees saying man I'm going straight out to Martinez now. I then told Green, "you have more dope on you don't you." Green replied, "yeah." I asked Green where it was and he told me it was in his butt.

Sergeant Clark authorized a strip search of Green to prevent any drugs or contraband from entering the jail. I closed the DUI Investigation Room door and while Green was still handcuffed pulled his baggie jeans down below his buttocks and pulled down the backside of his boxer shorts.

Upon doing this two small clear zip lock baggies containing an off-white chunky rock substance consistent with the two other baggies fell into Greens boxers. With my gloved hand I recovered these items and put them on the desk. I saw a piece of cellophane sticking from between the crack of Green's buttocks and pulled on the plastic which was about a quarter of a piece of plastic sandwich baggie, which contained three additional small zip lock baggies containing off-white rocky substance of similar packaging and

REPORTING OFFICERS	TYPED BY	DATE	ROUTED BY
Det. T. Mollenbernd, #1250	ph	3/17/0	<u> </u>
Robbery Com. Rel. A.T. Homicide Property Stat State SS Capt. Fraud C.A. D.A. Patr	t Admi rol Capt CIB C		Vice Other: Assigned: I.A. Other. Total

RICHMOND POLICE DEPARTMENT OF STATES

CASE NO: 00-7060

PAGE NO:

CODE SECTION

CRIME/CLASSIFICATION

LOCATION

H&S 11350 a

Possession of Rock Cocaine

800 Block of 8th Street, Richmond

VICTIM'S NAME - LAST, FIRST, MIDDLE (FIRM IF BUS.)

DATE OF ORIGINAL

STATE OF CALIFORNIA

16 MAR 00

description as the other baggies and suspected rock cocaine.

I then asked Green if he was only using why he had the rock cocaine hid in his butt. Green replied, "man I'm all tore up, I stole that off somebody." I then asked Green what he meant by that and he said that there was a guy on 7th Street that was selling and when hid his stash he took the rock cocaine from where it was hidden. Green told me, "I know I'm all fucked up, I need to go Rehab, I'm embarrassed for my family."

Based on Green's demeanor and symptoms he was under the influence of a controlled substance, is booked him into the RPD Jail for 11350 a H&S.

Upon conducting a strip search of Green no additional drugs were found. I then went to the Metro Office where I weighed the two small clear zip lock baggies containing the suspected rock cocaine that fell from Green's right pant leg for a total approximate weight of .3 grams. For sanitary reasons I threw away the sandwich baggie that Green had in his buttocks that contained the suspected rock cocaine and packaging. I weighed these five clear zip lock baggies and its' contents for a total approximate weight of .9 grams. I then conducted a presumptive color test, Scott Reagent NIK Test Kit G on a sample of the contents from zip lock baggie number one, which tested positive for the presence of cocaine base. I then placed the evidence into a white narcotics envelope. The five baggies recovered from Green buttocks I placed in a small yellow evidence envelope for sanitary purposes. I then booked the controlled substance into the RPD Narcotics Vault.

REPORTING OFFICERS	TYPED BY	DATE	ROUTED BY
Det. T. Mollenbernd, #1250	ph	3/17/0	<u> </u>
Robbery Com. Rel. A.T. Homicide Property Sta	t Adm		ViceOther: Assigned:

RI	ICHMOND POLICE DEF	PARTMENT 0710	CASE NO: 00-07060	
	Patrol Bureau Supplement			
			1	
CODE SECTION	CRIME/CLASSIFICATION	LOCATION		
HS11350	POSS CONTROLLED SUBSTANCE		_	
VICTIM'S NAME - LAST, FIRST		DATE OF ORIGINAL		
STATE OF CAL	IFORNIA			

On 03/16/00, at approximately 1445 hours, I was dispatched to cover Ofc Mollenbernd on a pedestrian stop ifo 806 8th St. Upon my arrival, I saw Ofc Mollenbernd standing and talking to a BMA on the e/c/I of the 800 block of 8th St. The BMA was wearing a red shirt and blue jeans. I exited my fully marked RPD Canine Patrol Unit #26 and walked towards both Ofc Mollenbernd and the BMA.

Ofc Mollenbernd told me he was going to search the BMA for narcotics. I watched Ofc Mollenbernd conduct an outer check of the BMA's clothing. Ofc Mollenbernd shook the right pant leg of the BMA, and I noticed two clear plastic baggies fall from the BMA's right pant leg, near the cuff area. I saw a white rock-like substance in those clear baggies. Ofc Mollenbernd bent over and picked the baggies up, and handed both baggies to me. I held onto the baggies until Ofc Mollenbernd completed his check of the BMA, and gave him back the two plastic baggies once he took the BMA into custody for controlled substance.

Ofc Mollenbernd requested that I do a narcotics check of the vehicle with my narcotics detection canine, Kai. I went to my patrol unit and took my narcotics detection dog, Kai, out of the vehicle, and walked over to the yellow car that was parked on the e/c/I that Ofc Mollenbernd told me that the suspect was in. I initiated an outer narcotics check of the vehicle which ended with negative results. I began an inner narcotics check of the vehicle, and my canine partner, Kai, alerted on the front passenger seat, midsection area.

It should be noted that my canine partner, Kai, will alert will the odor of narcotics would be present.

I advised Ofc Mollenbernd that he may want to check the suspect's inner clothing via a strip search once he gets to the H of J, based on the fact that my canine partner alerted on the seat cushion area, which is most likely if the person is handling narcotics in their inner clothing.

Ofc Mollenbernd transported the suspect to the H of J for booking. Approximately one hour later, Ofc Mollenbernd advised me that during the strip search he found several additional bags of rock cocaine in the suspect's rectum area.

REPORTING OFFICERS	TYPED BY	DATE	ROUTED BY	
OFC P WASHINGTON, #1243	bh	3/19/00	LT. E. MCBRIDE	MAR 1 9 2000
Robbery Com. Rel. A.T. Homicide Property State State Scapt. Fraud C.A. D.A. Parr	rol Capt Adm		Vice Other:	Assigned: VICF

RICHMOND POLICE DEPARTMENT

PROPERTY RECEIPT & RELEASE FORM

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EXHIBIT 3

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RICHMOND POL	ICE DEPT.	0710				4
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				01-147	62	PAGE 7- OF 4
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2 Tool Marks Photographed 3 Venicle/Shoe Tracks Photographed 4 Some Photographed 5 Victim Photographed	8 Area Checked 9 Area Checked 10 Witness(es) Contacted 11 Victim(s) Contacted	14 Crime Prevention Survey 15 Taletype or BOL 16 Other	Compession———————————————————————————————————	WP [] Wespon TL [] Toot/Marks VH [] Vehicle PH [] Photos HA [] Hair ST [] Serven		TT Tire Tracks ID Insulation/Duet PS Paint Samples GL Gleek-/Fragments DC Documents Mtd/Soil
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R	CASE NO: 01-14962 PAGE NO: 3 of 4						
соре section 12021(a)1 PC	Ex Felon in Possession of a	LOCATION Pennsylvania Ave./Harbour Way					
victms NAME LAST, FIRST			DATE OF ORIGINAL 05 June 2001				

On 05 June 2001 at approximately 0811hrs., Ofc. GARCIA and I were in marked unit #7 when we were dispatched to a call of a man with a gun on Pennsylvania Ave. and 7th Street. Dispatched advised that the suspect with the gun was approximately a 25 year old black male adult wearing a baby blue hat and a white t-shirt. The suspect was reported to be chasing another male. Upon arriving, the immediate scene was clear and all units were advised to check the surrounding blocks.

I proceeded from Lucas Ave. S/B on 10th Street when I observed a black male adult, later identified as GREEN, walking S/B on 10th Street near Pennsylvania Ave. GREEN was wearing a baby blue "Tar Heels" baseball cap and a white t-shirt. GREEN turned and walked W/B on Pennsylvania Ave. GREEN was in the 900 block of Pennsylvania Ave., when he looked in my direction. He began walking S/B towards the gas station located at the S/W corner of Pennsylvania Ave. and Harbour Way. GREEN walked through traffic and began yelling to someone at the gas station.

GREEN walked to the rear of a white Ford Bronco that was parked facing East in the gas station. The Ford Bronco was on the South side of the north gasoline pumps. I positioned my patrol car into the gas station behind GREEN as GREEN began to run around the front end of the Ford Bronco (WA 144HWE) to the driver side door. A black female, later identified as KEYS, was sitting in the driver seat of the Ford Bronco and appeared to be frightened by GREEN. KEYS was moving away from GREEN and leaning towards the passenger seat. GREEN had a black handgun in his right hand and he reached through the open drivers side window. GREEN threw the handgun into the vehicle and ran E/B from the gas station. GREEN was pursued by OFC. GARCIA, Ofc. CARMICHAEL, and Ofc. MANDELL E/B onto Pennsylvania Ave. towards 11th Street (See Attached Supplement). Ofc. MANDELL later advised that he had caught GREEN IFO 685 11th Street and took GREEN into custody.

I had KEYS step out of the vehicle and to stay near the rear of the Ford Bronco. I asked KEYS if I could search her for weapons and she said, "Go ahead but he threw the gun on the floor." I asked KEYS if she knew the man that threw the gun in her vehicle and she stated, "No." I walked up to the vehicle and observed a small black Walther PPK 9mm Kurz serial number K012787 on the driver side floor board. I grabbed the handgun by the grips and secured the gun in the rear of Ofc. BAGGET's vehicle.

KEYS stated that she went to the gas station to fill-up on gas when GREEN ran in front of her vehicle and

REPORTING OFFICERS	TYPED BY	DATE	ROUTED BY
MOODY 1333	вм	6/5/01	
Robbery Com. Rel. A.T. Hornicide Property State SS Capt. Fraud C.A. D.A. Pat	t Adm		Vice Other Assigned: LA. Other Total

RICHMOND POLICE DEPARTMENT 0710 Patrol Bureau Supplement			CASE NO: 01-14962
			PAGE NO:
	4 of 4)		
CODE SECTION	CRIME/CLASSIFICATION	LOCATION	
12021(a)1 PC	Ex Felon in Possession of a Firearm	Pennsylvania Ave./Harbour Way	
VICTIM'S NAME - LAST, FIRST, MIDDLE (FIRM IF BUS.)			DATE OF ORIGINAL
State of California			05 June 2001

she saw a pistol in his hand. KEYS stated she did not hear him say anything to her because she was so afraid. KEYS said that she tried to get away from GREEN and then GREEN threw the pistol onto the floor. KEYS saw GREEN run away towards Harbour Way.

I attempted to locate the RP at the Peres Elementary school but she had already left in the school bus en route to pick up more students. I returned to the Hall of Justice and ran a criminal history on GREEN. It showed that GREEN had been convicted of a felony before and I booked GREEN under 12021(a)1 PC, felon in possession of a firearm (A#2626).

Ofc. SIMMONS recovered and processed the handgun. Ofc. SIMMONS later advised me that the gun was loaded with 6 rounds in the magazine and one round in the chamber. I advised Sgt. BROWN of GREEN's case and that he was in custody. I then attempted to contact the RP by cell phone number (707) 483-8653 but no one answered.

Route to CIB.

REPORTING OFFICERS	TYPED BY	DATE	ROUTED BY
MOODY 1333	вм	6/5/01	
Robbery Corn. Rel. A.T. Hornicide Property State State SS Capt. Fraud C.A. D.A. Pate	rol Capt CIB C		Vice Other: Assigned: Total

. 	CASE NO: 01-14962		
i:	PAGE NO:		
	1		
CODE SECTION	CRIME/CLASSIFICATION	LOCATION	
PC12031	FELON IN POSSESSION OF A HANDGUN		
VICTIM'S NAME - LAST, FIRST, MIDDLE(FIRM IF BUS.)			DATE OF ORIGINAL
STATE OF CALIFORNIA			

INDEX AS SUSPECT:

GREEN, ERRINGTON DEWAYNE

BMA, DOB: 01/28/74

HGT: 6' 01" WGT: 170 LB\$

1615 CUTTING BL, RICHMOND, CA

CDL: B9798113 COMPLEXION: DARK

CLOTHING: WHI T-SHIRT, LT BLU BASEBALL CAP, BLU JEANS

WEAPON: SEMI AUTOMATIC HANDGUN

On 06/05/01, approximately 0814 hrs, I responded to assist in a check for a suspect described as a BMA, whi shirt, blu baseball cap armed with a handgun who was in the area of 7th and the 800 block of Pennsylvania chasing another unknown individual. It was further mentioned by communication, that this suspect was armed with some type of handgun and the REP was a Laidlaw representative who was on a cellular phone with communications.

Upon my arrival, I started driving around the area, at which point I monitored a transmission from Ofcs Garcia and Moody, who stated that a possible suspect was in the area of Harbour and Pennsylvania. Upon hearing this, I quickly responded to the area of Harbour and Pennsylvania from approximately one block away. I drove s/b on Harbour and approached Pennsylvania at which point, I observed the aforementioned suspect wearing a whi T-shirt, It blu baseball cap and jeans running in an easterly direction into the Alaska Gas Station. I further noted that the suspect was clutching something underneath his T-shirt in his front waistband. As the suspect approached a whi Ford Bronco which was uninvolved, but parked at the gas station pump attempting to get gas, the suspect ran around the front of the vehicle at which time he produced a handgun and discarded the handgun through the driver's portion of the whi Ford Bronco occupied by a BF.

The suspect, who was later ID'D as Green, then continued to flee in an easterly direction, at which point I assisted in the foot pursuit. I chased the suspect from my police vehicle to the area of 11th and Pennsylvania at which point I drove around and IFO the suspect cutting off his flight. I then exited my vehicle and after a short brief chase, assisted Ofc Mandell in the capture of the suspect. Ofc Mandell was able to tackle the suspect from the rear. I assisted him and after a brief struggle in order to handcuff the suspect, he was taken into custody without any further incident. I placed the suspect in the rear of my

REPORTING OFFICERS	TYPED BY	DATE	ROUTED BY	
OFC R CARMICHAEL, #348	mm	06/05/01		
Robbery Com. Ret. A.T. Homicide Property Stat State SS Capt Fraud C.A D.A Patr	rol Capt Admi		ViceOther:	Assigned:

RICHMOND POLICE DEPARTMENT 0710 Patrol Bureau Supplement			CASE NO 01-14962 PAGE NO:		
			2		
CODE SECTION	CRIME/CLASSIFICATION	LOCATION			
PC12031	FELON IN POSSESSION OF A HANDGUN				
VICTIM'S NAME - LAST,FIRST	DATE OF ORIGINAL				
STATE OF CAL					
-	<u> </u>				

police unit after he was checked for weapons. The suspect stated that the gun was his and that the BF back at the gas station, did not have any involvement in the incident. The suspect was then transferred to Ofc Mandell's vehicle at which point he was transported to RPD for booking. At RPD, I viewed a CA ID giving the aforementioned information. The weapon which had been recovered by Ofc Moody was subsequently processed at the scene.

I request this report be attached to the original. Route to CIB for follow up.

REPORTING DEFICERS	TYPED BY	DATE	ROUTED BY	<u>-</u>
OFC R CARMICHAEL, #348	mm	06/05/01	_	
Robbery Com. Rel. A.T. Homicide Property States SS Capt. Fraud C.A. D.A. Pat	rol Capt Adm		Vice Other: I.A Other:	Assigned: Total

EXHIBIT 4

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Case 4:08-cr-00045-DLJ Document 12 Filed 07/01/2008 Page 40 of 55

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4	ON THE SCENE	•			
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RICHMOND POLICE DEPARTMENT 0710 Patrol Bureau Supplement

CASE NO:

02-21824

PAGE NO:

CODE SECTION

CRIME/CLASSIFICATION

LOCATION

PC245 A2

ADW/FIREARM

RECORDS

VICTIM'S NAME - LAST, FIRST, MIDDLE (FIRM IF BUS.)

OATE OF ORIGINAL

GRISBY, ALDON

I. OBSERVATIONS:

Date and time: 08/11/02, 1350 hours.

Location: 576 A St. Scene: ADW.

Victim injury: gunshot wound to chest.

I responded to 576 A St on a report of a shooting. Other RPD officers, RFD personnel, and AMR personnel were on the scene prior to my arrival. When I arrived I saw that there were keys in the front yard of the residence. There was a blood trail leading from the keys into the residence of 576 A St. I entered the residence and saw Victim Grisby laying on the family room floor. I noted there was a bloody chair above where Grisby's head was on the floor. I saw that Grisby's clothing had been cut away in a search for wounds. I saw that there was a gunshot wound to the left side of Grisby's chest. Grisby was receiving medical attention from fire and ambulance personnel. Grigsby was taken from the scene and transported by ambulance to a landing area where he was then transported by helicopter to John Muir Hospital for further medical attention. Once Grigsby was transported from the living room I saw that there was money and a bag with yellow metal rings and other items on the floor in the area of his clothing.

I took photographs of the scene. I collected the keys, sample swabs of blood. I collected Grisby's clothing and the items on the floor which were intermingled with his clothing. I was informed that a cell phone had been brought in from outside where Grisby had been shot. I collected the cell phone for safe keeping.

At the H of J I removed a clear plastic bag containing five smaller zip-lock bags from the right front pants pocket of the victim's clothing. Each of the five ziplock bags contained off-white rock material consistent with the appearance of base cocaine. I was unable to test the white rock material as I did not have a Presumptive Test available. I later booked those items into the narcotics locker. I booked \$27.86 which was in the right front pants pocket of the victim's clothing. I located one black men's wallet containing two CA ID cards for Grisby and miscellaneous other papers. I later booked the wallet into property. I located one notebook with numerous initials and amounts written beside the initials in the left rear pocket of the victim's pants. I counted the currency that was on the floor in the area of the victim's clothing that I had collected. The currency totaled \$727 in various denominations. It should be noted that the bulk of the currency was held together with a rubber band and was separated by denominations, one, fives, tens, and twenties. I booked one Mechanics Bank Safe Deposit Key #1804 which I collected in the area of the victim's clothing from the living room floor.

REPORTING OFFICERS	TYPED BY	DATE	ROUTED BY
OFC E_HAUPT, #1220	md	08/19/02	SGT. M. PON AUG 1 9 ZONK
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RICHMOND POLICE DEPARTMENT 0710			CASE NO: 02-22314	
	Patrol Bure	PAGE NO:		
			2	
CODE SECTION	CRIME/CLASSIFICATION	LOCATION		
PC488	PETTY THEFT			
VICTIM'S NAME - LAST,	FIRST,MIDDLE(FIRM IF BUS.)		OATE OF ORIGINAL	
PETRO PLU	·			

After the bloody clothing was allowed to dry it was booked under evidence under this case number along with the other items that I previously mentioned.

II. PHOTOS: DIGITAL CAMERA #32 PHOTOGRAPHS DOWNLOADED UNDER THIS CASE NUMBER.

- 1. View of 578 A St.
- 2. View of walkway ifo the residence.
- 3. View of the victim on the backboard in the living room.
- 4. View of the victim, with a wound to the left side of his chest.
- 5. View of victim being transported into the ambulance.
- 6. View of clothing, money and key on the living room floor.
- 7. View of the blood on the chair in the living room.
- 8. View of keys in the front yard of the residence.

III. LATENTS: N/A

IV. PHYSICAL EVIDENCE: BOOKED UNDER THIS CASE NUMBER.

- 1. One set of keys (8 keys).
- 2A. One control swab.
- 3A. One blood sample swab.
- 3B. One control swab.
- 4A. One blood sample swab.
- 4B. One control swab.
- 5. One Samsung cell phone.
- 6. One plastic bag containing nine yellow metal rings (eight with stones, one without stones).
- 7. One pair of white tennis shoes, bloodstained.
- 7A. One plastic bag containing five clear small plastic ziplock bags each containing off-white rock material.
- 7A1. \$27.86 US currency and coins.
- 7B. One black men's wallet with ID and miscellaneous papers (for Alderi Grisby, 02/26/52).
- 7C. One notebook.
- 7D. One Mechanics Bank Safe Deposit box (#1804).
- 8. One pair of "Cosmo Jeans" black, bloodstained, cut open.

REPORTING OFFICERS	TYPED BY	DATE	ROUTED BY
OFC E HAUPT, #1220	md	08/19/02	
Robbery Com. Rel. A.T. Homicide Property State SS Capt. Fraud C.A. D.A. Pet	rol Capt Adm		Vice Other Assigned: I.A. Other: Total

VICTIM'S NAME - LAST,	FIRST,MIDDLE(FIRM IF BUS.)		DATE OF ORIGINAL
PC488	PETTY THEFT		
CODESECTION	CRIME/CLASSIFICATION	LOCATION	
			3
	Patrol Burea	PAGE NO:	
	02-22314		
	•	CASE NO:	

- Two shirts, (one Bill Blass, tan and blue print, bloodstained, cut open, one white sleeveless 9. bloodstained, cut open T-shirt).
- (No evidence item for this number). 10.
- \$727 US currency. 11.

PETRO PLUS TOWING

REPORTING OFFICERS	TYPED BY	DATE	ROUTED BY
OFC E HAUPT, #1220	md	08/19/02	
Robbery Com. Rel. A.T. Homicide Property Stat State SS Capt. Fraud C.A. D.A. Patr	rol Capt. Admi		Vice

	RICHMOND POLICE Investigative Bu	CASE NO: 02~21824	
	Investigative Bu	reau Supplement	PAGE NO:
			1
CODE SECTION	CRIME/CLASSIFICATION	LOCATION	
PC245(A)(2)	ADW/FIREARM_	567 8 TH ST	
/ICTIM=S NAME - LAST, I	FIRST, MIDDLE (FIRM IF BUS.)		DATE OF ORIGINAL
GRISBY ALL	OON		08/11/02

Attention Records, index as witness:

Boykins, Herman BMA 05/07/1947 322 30TH Street Richmond, Ca. 94804

Nichols, Barbara BFA 08/07/1950 583 8th Street Richmond, Ca. 94801 Hm#237-2467

Nichols, Craig BMA 07/06/1970 583 8th Street Richmond, Ca. 94801 Hm#237-2467 DATA OCT V 8 2000

ENTRY

13 August 2002 0700 Hours

I received this out of custody assault with a firearm report for follow up investigation. I read Officer Jackson's (serial #1378) report and learned that Aldon Grisby was shot one time on the left side of his torso. Grisby was in extreme pain and was not able to give Officer Jackson a statement. Officer Jackson was told by Aldon's sister, Caroline Grisby, that a BMA who has a first name of "Henry" was involved in Aldon's attack. Caroline further said "Henry" only has three or four fingers on one hand. Aldon was taken to Kaiser Hospital where he was airlifted to the John Muir Trauma Center.

1100 Hours

I telephoned and spoke with Caroline. Caroline told me Aldon was with "Three Finger Herman" when he was shot. Caroline said she heard on the street that Three Finger Herman may have had something to do with the attempted robbery and shooting of Aldon. Caroline told me Aldon is still in critical condition. Caroline said

REPORTING OFFICERS		TYPED BY	DATE	ROUTED BY		
Det. H. Esparza 1165		He	09/05/02	River		
Robbery Com. Rel. A.T. Homicide Property Stat Admin. Juv. Vice Other. Assigned: C. C. State SS Capt. Freud C.A. D.A. Patrol Capt. CIB Capt. Traffic I.A. Other. Total C.						

R	CASE NO: 02-21824			
	PAGE NO			
		RECORDS	2	
CODE SECTION	CRIME/CLASSIFICATION	LOCATION		
PC245(A)(2)				
VICTIM-S NAME - LAST, FIRST, MIDDLE (FIRM IF BUS.)				
GRISBY, ALDON				

Aldon is heavily medicated, in a state of semi-consciousness, and not able to speak. Caroline told me she would call me should Aldon's condition change or should she hear anything else about what happened or who was involved.

1120 Hours

I telephoned John Muir Hospital, I confirmed that Aldon was in critical condition and still not able to speak.

21 August 2002 1000 Hours

I telephoned John Muir Hospital. I spoke with a male nurse in the Intensive Care Unit of John Muir Hospital that identified himself as "Hiram." Hiram told me Aldon was still in critical condition. Hiram said Aldon was not responsive. Hiram also said the doctors had to remove Aldon's spleen and portions of his intestines and a portion of his liver. Hiram said Aldon was heavily medicated.

22 August 2002 1330 Hours

There was a note on my desk to call Officer McVey. Officer McVey had information about the shooting of Aldon Grisby. I telephoned Officer McVey on his cell phone. Officer McVey told me he received information from a person who wished to remain anonymous that the suspects in the shooting of Aldon Grisby were Arrington Green and Willie Randolph III. Officer McVey said Aldon was shot during a robbery. Officer McVey said he was told the weapon that was used was a .357 caliber revolver. Officer McVey could give me no further information.

I compiled a photo line up of Arrington Green and another photo line up of Willie Randolph III. Green was placed in the #1 position and Randolph was placed in the #4 position.

28 August 2002 0800 Hours

I telephoned John Muir Hospital. I was told that Aldon was doing better but was still heavily medicated.

REPORTING OFFICERS	TYPED BY	DATE	ROUTED BY
Det. H. Esparza 1165	Не	09/05/02	
		nin Juv 9 Capt Traffic	Vice Other Assigned 1.A Other Total

R	CASE NO: 02-21824				
Investigative Bureau Supplement					
	·	RECORDS	3		
CODE SECTION	CRIME/CLASSIFICATION	LOCATION			
PC245(A)(2)					
VICTIM=S NAME - LAST, FIRST, MIDDLE (FIRM IF BUS.)					
GRISBY, ALDON					

04 September 2002 1030 Hours

Officer Newton came to my office. Officer Newton told me Three Finger Herman was at the Hall of Justice. Three Fingers Herman's true name is Herman Boykins. I asked Officer Newton to escort Boykins to CIB interview room #130.

1040 Hours

I interviewed Boykins. This interview was recorded on video cassette. I asked Officer Newton to sit in on the interview because it appeared to me they had a good rapport. The following is a summation of my interview of Boykins. Refer to the video cassette for complete details.

Boykins told me he and Aldon were talking in Aldon's front yard. Boykins referred to Aldon as "Butch." Boykins said a BMA walked by them. Boykins said the BMA looked directly at him from a short distance away. Boykins told the BMA "What's up?" Boykins said the BMA walked to a car that was parked down the street. Boykins said the suspect got a gun out of the car. Boykins said he did not see where in the car the suspect got the gun. Boykins said the suspect was holding the gun in his left hand which was parallel his leg. Boykins said the suspect lifted the gun up and said "Shut the fuck up! This is a robbery!" Boykins believed the suspect was joking. Boykins asked the suspect if it was a joke. The suspect told Boykins "Shut the fuck up motherfucker!" Boykins said Aldon asked him (Boykins) if he had anything to do with the robbery. Boykins told Aldon he had nothing to do with it.

Boykins said the suspect fired one shot. Boykins said the shot passed right in front of him. Boykins said he backed away from Aldon and the suspect. Boykins said he got on his bicycle and rode away. Boykins said the suspect was looking at Aldon. Boykins said the suspect did not try to take anything of his. Boykins told me he heard a second shot as he was pedaling away. Boykins said he felt bad for having abandoned Aldon. Boykins made a u-turn and drove back toward Aldon's house. Boykins told me he saw the suspect running away. Boykins last saw the suspect running across Ripley Avenue. Boykins said someone in the neighborhood told him the suspect dropped the gun as he was running. Boykins said he was told the suspect came back later, found the gun, and took it with him. Boykins said the gun could possibly now be to the rear of "Cookie's" house which is across the street from Aldon's house. Officer Newton knew the location of Cookie's house.

REPORTING OFFICERS	TYPED BY	DATE	ROUTED BY
Det. H. Esparza 1165	He _	09/05/02	
Robbery Com. Rel. A.T. Homicide Property State State SS Capt Fraud C.A. O.A. P.		nin Juv Capt Traffic	Vice Other: Assigned: I.A. Other: Total

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08/11/02

Boykins said he can identify the suspect. Boykins has seen the suspect several times in the past. Boykins said he helped the suspect once when the police had him stopped. Boykins told the police to give the guy a break and they did.

I told Boykins I wanted to show him a photo line up. I told Boykins the suspect may or may not be in the photo line up. I told Boykins he was not obliged to identify anyone. I showed Boykins a color photo line up with Arrington Green in the #1 position. Boykins looked at the photo line up and pointed to photo #1 without hesitation. Boykin's said "that him." Boykins signed the photo line up. This concluded Boykins statement to me. I marked the video cassette 1165-1 for record keeping purposes.

Officer Newton and I called for a briefing. Present at the briefing were members of the Robbery/Homicide Unit, Property Crimes Unit, and Patrol. Officer Newton told us at the briefing that he had seen Arrington Green today in the 7th Street and Pennsylvania Avenue area. We devised a plan where a select number of units would look for Green in that area and the other units would be pre-positioned to secure the block should Green attempt to evade capture.

1225 Hours

GRISBY, ALDON

Green was arrested in the 700 block of Pennsylvania Avenue without incident.

1230 Hours

Officer Newton and I drove to 583 8th Street. Other detectives came along to help search if and when consent was given. The other detectives stayed out of view. 583 8th Street is the home of Barbara Nichols, a.k.a. "Cookie." Boykins had told me during the interview that Green's handgun might be hidden in a truck to the rear of this house. Nichols was also a potential witness to the shooting.

Officer Newton knocked on the front door. A male answered the door. Officer Newton asked to speak with Cookie. Cookie came to the door. Officer Newton asked Cookie if we could search her home and her backyard for weapons. Cookie told Officer Newton that we could "Go ahead and look." I interviewed Cookie while the home was searched. I will hereinafter refer to Cookie by her last name, Nichols.

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VICTIM≈S NAME - LAST, FIRST, MIDDLE (FIRM IF BUS.)				
GRISBY, ALDON				

The following is a summation of my interview of Nichols. Nichols told me she was in her bedroom when she heard a gunshot. Nichols said she ran to her front room. Nichols said her son Craig was looking through the front window. Nichols said Craig told her Arrington Green got a handgun from "Mexican Joe's" car and "snuck up" behind Aldon and Boykins. Nichols said she has known Aldon, Boykins, and Green for several years. Nichols said she sees all three of them on a regular basis. Nichols said people from the neighborhood frequently come to her house to "hang out." Officer Newton knows "Mexican Joe" to be Joseph Love.

Nichols said she looked outside. Nichols said Green told Aldon to "break" himself. Nichols said Boykins left on his bike after the first shot. Nichols said Aldon refused to give Green his money. Nichols said she saw Green shoot Aldon as they wrestled on the ground. Nichols said Green ran and dropped his gun in Love's driveway. Nichols told me she saw Green get in to the front passenger's side of Love's vehicle. Nichols told me Love picked up the gun and the casings. Nichols described the gun as an automatic. Nichols said Love ran to his car, where Green was waiting. Nichols said Love drove away with Green in the car. I asked Nichols if she could identify Green. Nichols said she knows Green and some of his wife's family. Nichols said she could identify Green. I showed Nichols a single photograph of Green. Nichols looked at the photo and said "That's Arrington." I asked Nichols if she saw Arrington shoot Butch (Aldon). Nichols replied "Yes." I asked Nichols to sign the photo. Nichols told me she heard the gun that Arrington used belonged to Love. This concluded Nichols statement to me. Craig Nichols was also in the home. He refused to speak with me. No weapon was found in Nichols' house or in the truck that was parked in the backyard.

1330 Hours

I had Officer Avila bring Green to CIB interview room #130. I read Green his rights per my issued Miranda card. Green understood his rights and initially agreed to speak with me. I told Green why he was arrested. I asked Green to tell me his side of the story. Green told me he did not know what I was talking about. Green said he wanted an attorney. Green was booked for robbery and assault with a firearm.

1440 Hours

I telephoned Caroline Grisby. Caroline told me Aldon had been transferred to the Kaiser Hospital in Oakland. Caroline said Aldon was in room 729.

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GRISBY, ALDON					

05 September 2002 0945 Hours

Detective Louie Tirona and I went to Kaiser Permanente Hospital in Oakland. I interviewed Aldon in room #729. The following is a summation of that interview. The interview was recorded on audio cassette.

Aldon told me he went outside his mother in laws house to have a beer. Aldon told me Three Finger Herman was outside. Aldon told me a black male approached him and put a gun to his face. Aldon said the black male told him "Gimme all your money Butch." Aldon said he told the suspect "Give you all my money, for what?" The suspect told Aldon, "This is a robbery." Aldon said he thought the black male was "just play'n" because he (the black male) was supposed to be his (Aldon's) "partner." Aldon said he thought he was "set up." Aldon said the suspect and Herman were in front of the house talking before the robbery. Aldon told the suspect he would loan him money, but he was not just going to give him the money. The suspect again told Aldon it was a robbery. Aldon said the suspect fired one shot in the air to scare him. Aldon said he was able to get close enough to the suspect to reach for the gun. Aldon said he and the suspect fell to the ground.

Aldon told me the suspect shot him on the side of his body. Aldon said the suspect dropped the gun and ran toward Pennsylvania Avenue. Aldon told me he picked up the gun and took it in the house with him. Aldon said he last saw the gun on the floor of his house. Aldon said he was "passing out." Aldon thought the police may have taken the gun. I told Aldon the police did not have the gun. Aldon described the gun as a .32 caliber revolver with a barrel length of about 7inches. I asked Aldon if anyone else saw what happened. Aldon said the entire neighborhood was watching.

I asked Aldon why the suspect would want to rob him if they knew each other. Aldon did not know why the suspect wanted to rob him. I asked Aldon if he had a conversation with anyone days before the robbery about Herman wanting to rob him. Aldon said someone told him Herman was talking about robbing him. Aldon confronted Herman with this information. Herman told Aldon he would never rob him. Aldon thought Joseph Love was also involved in the robbery. Aldon could not explain how Love was involved other than to say Love and the suspect are friends and Love was across the street when the robbery happened.

I asked Aldon if he could identify the suspect. He said he could. Aldon said the suspect "hangs out" in the area of 7th Street and Pennsylvania Avenue. I asked Aldon to read the photo line up admonishment. Aldon said he could

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not see the letters. I read Aldon the photo line up admonishment. Aldon said he understood the admonishment. I asked Aldon to describe the suspect. Aldon said the suspect was about 6'03" tall, 120 pounds, with a dark complexion, and dark hair. I showed Aldon a photo line up with Arrington Green in the #4 position. Aldon pointed to the picture of Green and said "That's him, right there." I asked Aldon to circle the picture of the person he identified and to sign the line up. This concluded my interview of Aldon. Refer to the audio cassette for complete details.

1105 Hours

I telephoned Nichols to ask her if she was sure Love picked up the gun Green dropped. A male answered the phone. I asked for Cookie. Nichols came to the phone. I told Nichols I wanted to ask her a couple more questions. Nichols told me "I don't want to be no snitch. You're putting my life in danger. I didn't see nothing." I told Nichols that I understood her concern. I told Nichols that she did see what happened. Nichols replied, "I don't care what I said yesterday. I ain't gonna be no snitch." Nichols said she did not want to talk to me further. This concluded my conversation with Nichols.

1200 Hours

I telephoned Delores Berry to inquire about the whereabouts of the handgun. There was no answer.

1330 Hours

I drove to the District Attorney's Office. I spoke with Deputy District Attorney Gary Koeppel in his office about the details of this case. DDA Koeppel reviewed this case and filed felony 245(A)(2)PC, 211PC, 205PC, as well as numerous enhancements against Green.

EVIDENCE: HOLD

CLEARANCE: ARREST/COMPLAINT

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